

MC5ZZCHAP-TC

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

20 Cr. 160 (MKV)

5 ALEXANDER CHAN,

6  
7 Defendant.

8 Plea

9 -----x

10 New York, N.Y.  
11 December 5, 2022  
12 2:30 p.m.

13 Before:

14 HON. MARY KAY VYSKOCIL,

15 District Judge

16 APPEARANCES

17 DAMIAN WILLIAMS

United States Attorney for the  
Southern District of New York

18 BY: SARAH MORTAZAVI

Assistant United States Attorney

19 DAVID E. PATTON

20 Federal Defenders of New York, Inc.  
Attorney for the Defendant

21 BY: NEIL P. KELLY

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1 (Case called)

2 THE COURT: Good afternoon, Ms. Mortazavi, and to  
3 Dr. Chan and to the members of his family. It's important that  
4 you're here, and I appreciate your being here today.

5 Good afternoon to our court reporter. Thank you for  
6 being here.

7 So as you heard, I am Judge Vyskocil. I have been  
8 presiding over this case since it was first filed. We are here  
9 today for a change of plea hearing for Dr. Chan.

10 Let me please confirm with you, sir, you do not need  
11 the services of an interpreter, do you?

12 THE DEFENDANT: No, I do not.

13 THE COURT: Okay. Do you speak and understand English  
14 clearly?

15 THE DEFENDANT: Yes, I do.

16 All right. Ms. Mortazavi, have you taken care of  
17 whatever notice to victims?

18 MS. MORTAZAVI: Yes, your honor.

19 THE COURT: By way of background about this case, in  
20 November of 2020, the grand jury returned a superseding  
21 indictment number S6 charging Dr. Chan in Count Three with a  
22 conspiracy to adulterate, misbrand drugs, with the intent to  
23 defraud or mislead, and in Count Four with mail and wire fraud  
24 conspiracy.

25 I am informed that Dr. Chan now has an application to

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1 waive indictment and to plead guilty to a one-count superseding  
2 information numbered S15. That information charges him with a  
3 substantive drug adulteration and misbranding offense with the  
4 intent to defraud and mislead, in violation of Title 21, United  
5 States Code, Sections 331 and 333(a)(2). Specifically, that  
6 superseding information alleges that from at least in or about  
7 December of 2016 through at least in or about March of 2020,  
8 Dr. Chan, with the intent to defraud and mislead, adulterated  
9 and misbranded drugs and caused the adulteration and  
10 misbranding of drugs in interstate commerce.

11 In particular, the government alleges that Dr. Chan  
12 distributed adulterated and misbranded drugs shipped in  
13 interstate commerce which were administered to thoroughbred  
14 racehorses under the care of Empire Veterinary Group, and that  
15 he took steps to avoid detection of that scheme by regulators  
16 and others. That superseding information also contains a  
17 forfeiture allegation.

18 Is that correct from the defendant's point of view?

19 MR. KELLY: Yes, your Honor.

20 THE COURT: All right. So in advance of today's  
21 change of plea hearing, I have received from Ms. Mortazavi a  
22 waiver of indictment that appears to be signed. It's not  
23 dated, though. I also have a copy of a plea agreement, and  
24 I've been provided with a proposed consent preliminary order of  
25 forfeiture. I will enter that waiver of indictment in the

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1 records as Government Exhibit 1 and the plea agreement as  
2 Government Exhibit 2.

3 Now, Dr. Chan, before I can accept your guilty plea, I  
4 need to ask you a number of questions while you are under oath  
5 in order to assure myself that you are knowingly and  
6 voluntarily waiving you right to be indicted by a grand jury  
7 and that your plea is, in fact, a valid and a voluntary one.  
8 So I may at various points cover various topics or matters that  
9 were addressed in various forms or agreements that you may have  
10 signed. If I do that, it's because it's very important that  
11 you understand what is happening here today.

12 If at any point you don't understand something that I  
13 am asking you or something that I say, please stop me, and I'll  
14 try to rephrase it, explain it to you more clearly, or you can  
15 at any point in time, if you wish to do so, speak with your  
16 lawyer.

17 All right. So would you please let me know, sir, if  
18 you don't understand anything?

19 THE DEFENDANT: I will.

20 THE COURT: All right. So, Ms. Dempsey, would you  
21 please administer the oath to Dr. Chan.

22 THE DEPUTY CLERK: Please stand, raise your right  
23 hand.

24 (Defendant sworn)

25 THE DEPUTY CLERK: Thank you. Please be seated.

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1 THE COURT: All right. Dr. Chan, do you understand  
2 that you have now just solemnly promised to tell the truth and  
3 that if you answer any of my questions falsely, your false or  
4 untrue statements may be used against you later in another  
5 proceeding for perjury or making false statements?

6 Do you understand that?

7 THE DEFENDANT: I understand.

8 THE COURT: Can you tell me, sir, how old are you?

9 THE DEFENDANT: 45.

10 THE COURT: And how far have you gone in school?

11 THE DEFENDANT: I have a degree in veterinary  
12 medicine.

13 THE COURT: And you've told me you do speak and  
14 understand English clearly?

15 THE DEFENDANT: Yes.

16 THE COURT: Are you a citizen of the United States?

17 THE DEFENDANT: Yes.

18 THE COURT: Were you born here?

19 THE DEFENDANT: Yes.

20 THE COURT: Are you now or have you recently been  
21 under the care of a medical doctor or other health care  
22 professional?

23 THE DEFENDANT: No.

24 THE COURT: Are you now or have you recently been  
25 under the care of a mental health professional?

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1 THE DEFENDANT: No.

2 THE COURT: Have you ever been treated or hospitalized  
3 for any mental illness?

4 THE DEFENDANT: No.

5 THE COURT: Have you ever been treated or hospitalized  
6 for any type of addiction, including drugs or alcohol?

7 THE DEFENDANT: No.

8 THE COURT: Have you ever been addicted to drugs or  
9 alcohol?

10 THE DEFENDANT: No.

11 THE COURT: In the past 24 hours, have you taken any  
12 drugs, any medicine, any pills?

13 THE DEFENDANT: No.

14 THE COURT: Have you had any alcohol to drink in the  
15 past 24 hours?

16 THE DEFENDANT: No.

17 THE COURT: Is your mind clear today?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand what we are doing?

20 THE DEFENDANT: Yes, I do.

21 THE COURT: All right. Are you feeling well  
22 physically? In other words, are you healthy today?

23 THE DEFENDANT: Yes.

24 THE COURT: And are you represented by counsel?

25 THE DEFENDANT: Yes.

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1 THE COURT: Who is your counsel?

2 THE DEFENDANT: Neil Kelly.

3 THE COURT: And are you satisfied with Mr. Kelly's  
4 representation of you?

5 THE DEFENDANT: Yes.

6 THE COURT: Have you had ample opportunity to talk  
7 with him, to confer with him, consult with him in advance of  
8 today's proceeding?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you need any more time to talk with him  
11 before we move forward?

12 THE DEFENDANT: No.

13 THE COURT: All right. Do either counsel have any  
14 doubt as to Dr. Chan's competence to plead at this time?

15 MS. MORTAZAVI: No, your Honor.

16 THE DEFENDANT: No, your Honor.

17 THE COURT: Dr. Chan, your attorney has told me that  
18 you wish to withdraw your plea of not guilty and to enter a  
19 plea of guilty to the superseding information in this case,  
20 numbered S15.

21 Do you in fact wish to waive indictment and enter a  
22 plea of guilty?

23 THE DEFENDANT: Yes.

24 THE COURT: Have you fully discussed your case with  
25 your attorney, including the charges to which you intend to

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1 plead guilty, any potential defenses to those charges?

2 THE DEFENDANT: Yes.

3 THE COURT: Have you discussed with him the  
4 consequences of entering the plea of guilty?

5 THE DEFENDANT: Yes.

6 THE COURT: In other words, you have discussed the  
7 potential penalties that you face and other consequences of  
8 pleading guilty?

9 THE DEFENDANT: Correct, yes.

10 THE COURT: And you are satisfied with Mr. Kelly's  
11 representation of you and your opportunity to consult with him?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. On the basis of Dr. Chan's  
14 responses to my questions and my observations of his demeanor,  
15 I do find that he is fully competent to waive indictment and to  
16 enter an informed plea at this time.

17 Now, I've been given a form, Dr. Chan, and it's not  
18 labeled but it reads: "The above-named defendant, who is  
19 accused of one count of violating Title 21, United States Code,  
20 Section 331 and 333, being advised of the nature of the charges  
21 and of his rights, hereby waives prosecution by indictment and  
22 consents that the proceeding may be by information instead of  
23 indictment."

24 Do you have that document in front of you?

25 THE DEFENDANT: I do.



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1 THE COURT: All right. And we've marked this as  
2 Government Exhibit 1. Does your signature appear on this form?

3 THE DEFENDANT: Electronically, yes.

4 THE COURT: Counsel, let me just ask you both, there  
5 is a line that says "witness," but there is no signature there.  
6 Is it --

7 MR. KELLY: Your Honor, in my practice, the court  
8 deputy or someone else often signs, but we were submitting it  
9 in a timely fashion to get it to the Court, so we didn't have a  
10 witness.

11 THE COURT: Do you have an original, unsigned  
12 original?

13 MS. MORTAZAVI: I don't have an unsigned, your Honor,  
14 but counsel and the defendant can put their initials next to  
15 the signature.

16 THE COURT: Yes. I was going to say, why don't you  
17 take that, Mr. Kelly.

18 Dr. Chan, if you would just sign next to where your  
19 name is electronically signed, because my courtroom deputy will  
20 witness you signing it, but she can't do that with an S/ for  
21 your signature.

22 MR. KELLY: Would the Court like me to date it or  
23 leave it as is?

24 THE COURT: You can date it, but you need to change  
25 it, obviously. Today is December 5.

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1           And then, Mr. Kelly, if you would just initial your  
2           signature or sign it, either way.

3           MR. KELLY: May I approach?

4           THE COURT: Sure, thank you.

5           All right. Dr. Chan, you've now signed this waiver of  
6           indictment form. Have you previously discussed it with your  
7           lawyer, Mr. Kelly?

8           THE DEFENDANT: Yes, I have.

9           THE COURT: Did he explain to you what this form  
10          accomplishes?

11          THE DEFENDANT: Yes, he did.

12          THE COURT: Do you understand that by signing this  
13          form you are waiving your right to be indicted by a grand jury?

14          THE DEFENDANT: Yes, I do.

15          THE COURT: And you understand that you are under no  
16          obligation to waive indictment?

17          THE DEFENDANT: I understand.

18          THE COURT: And you understand that if you do not  
19          waive indictment, if the government wants to prosecute you, it  
20          would have to present the case to a grand jury which may or may  
21          not indict you?

22          THE DEFENDANT: Yes.

23          THE COURT: And you understand that by waiving  
24          indictment you're giving up your right to have the case  
25          presented to a grand jury?

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1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand what a grand jury is?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: Have you discussed with your lawyer that  
5 the grand jury is body made up of 23 individuals of whom 16  
6 must be present in order to conduct business and that you could  
7 not be charged unless 12 of those present voted for indictment  
8 based on a finding of probable cause?

9 THE DEFENDANT: Yes.

10 THE COURT: You understand that?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: All right. Does either counsel know of  
13 any reason that I shouldn't find that Dr. Chan has knowingly  
14 and voluntary waived his right to be indicted by a grand jury?

15 MS. MORTAZAVI: No, you Honor.

16 MR. KELLY: No, your Honor?

17 THE COURT: Thank you.

18 All right. I do find that Mr. Chan has knowingly and  
19 voluntarily waived his right to be indicted by a grand jury,  
20 and I authorize the filing of the information in this case.

21 Will you take care of that, Ms. Mortazavi?

22 MS. MORTAZAVI: Typically, the court has been filing  
23 these, your Honor. I will coordinate with Ms. Dempsey.

24 THE COURT: All right. That would be great. Thank  
25 you very much.

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1 Dr. Chan, before I accept any plea from you, I need to  
2 ask you certain additional questions. My questions are  
3 intended to satisfy me that you wish to plead guilty because  
4 you are in fact guilty and that you fully understand your  
5 rights and the consequences of entering the plea of guilty. So  
6 I want to begin by describing to you certain rights that you  
7 have under the Constitution and the laws of the United States.  
8 You will be giving up these rights if you enter a plea of  
9 guilty.

10 So please listen very carefully. And I remind you  
11 again, if you don't understand something that I am saying or  
12 describing, please stop me, and I or Mr. Kelly will explain it  
13 to you more fully.

14 Will you do that, please?

15 THE DEFENDANT: I will.

16 THE COURT: All right. Thank you.

17 Under the Constitution and laws of the United States,  
18 you have a right to a speedy and a public trial by a jury on  
19 charges against you which are contained in the information.

20 Do you understand that?

21 THE DEFENDANT: I do.

22 THE COURT: Do you understand that you have the right  
23 to plead not guilty and to continue to plead not guilty to the  
24 charges against you?

25 THE DEFENDANT: I do.

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1 THE COURT: Do you understand that if there were a  
2 trial, you would be presumed innocent, and the government would  
3 be required to prove you guilty by competent evidence and  
4 beyond a reasonable doubt?

5 Do you understand that?

6 THE DEFENDANT: I understand.

7 THE COURT: Do you understand that you would not have  
8 to prove at trial that you are innocent?

9 THE DEFENDANT: I understand.

10 THE COURT: Do you understand that if there were a  
11 trial, a jury made up of 12 people selected from this district,  
12 the Southern District of New York, would have to agree  
13 unanimously in order to find you guilty?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: Do you understand that if there were a  
16 trial, you would have a right to be represented by an attorney  
17 at trial and at all other stages of the proceedings, and if you  
18 couldn't afford one, an attorney would be provided to you free  
19 of cost?

20 Do you understand that?

21 THE DEFENDANT: I do.

22 THE COURT: Do you understand that if there were a  
23 trial, you would have the right to see and to hear all of the  
24 witnesses against you, and your attorney could cross-examine  
25 them. You would you have the right to have your lawyer object

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1 to the government's evidence and to offer evidence on your  
2 behalf if you so desired. You would have the right to have  
3 witnesses required to come to court to testify on your behalf,  
4 and you would have the right to testify yourself, but you would  
5 not be required to do so.

6 Do you understand all of that?

7 THE DEFENDANT: I do.

8 THE COURT: And do you understand that if there were a  
9 trial and you decided not to testify, no adverse inference  
10 could be drawn against you based on your decision not to  
11 testify? And by that I mean that the jury would be instructed  
12 that it could not assume that you weren't testifying because  
13 you were guilty or because you had something to hide.

14 Do you understand that?

15 THE DEFENDANT: I do.

16 THE COURT: And do you understand that if you were  
17 convicted at trial, would you have the right to appeal from  
18 that verdict?

19 THE DEFENDANT: Yes, I understand.

20 THE COURT: Do you understand each and every one of  
21 these rights?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: Do you have any questions about your  
24 rights?

25 THE DEFENDANT: No, I do not.

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1 THE COURT: And do you understand that by entering a  
2 plea of guilty today, you will be giving up each and every one  
3 of these rights; that you will be waiving these rights? Do you  
4 understand that?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: And do you understand that you would be  
7 waiving any possible claim that your constitutional rights may  
8 have violated and you will not have a trial? Do you understand  
9 that?

10 THE DEFENDANT: Yes.

11 THE COURT: All right. Do you understand that by  
12 entering a plea of guilty, you will also have to give up the  
13 right not to incriminate yourself because in a few moments, if  
14 we proceed with your entering of a plea, I will ask you to tell  
15 me in your own words what it is that you did that makes you  
16 guilty in order to satisfy myself that you are guilty as  
17 charged and you have to admit and acknowledge your guilt.

18 Do you understand that?

19 THE DEFENDANT: I do.

20 THE COURT: Do you understand that you can change your  
21 mind right now and refuse to enter a plea of guilty?

22 THE DEFENDANT: Yes.

23 THE COURT: You understand that you do not have to  
24 enter this plea if for any reason you do not wish to do so.

25 You understand that fully?

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1 THE DEFENDANT: I do.

2 THE COURT: Dr. Chan, a few moments ago I asked you --  
3 or I mentioned to you the superseding information in this case.  
4 Do you have you a copy of that?

5 THE DEFENDANT: Yes.

6 THE COURT: All right. Have you read the superseding  
7 information?

8 THE DEFENDANT: Yes, I have.

9 THE COURT: Did your attorney discuss the information  
10 and the charges it contains with you?

11 THE DEFENDANT: Yes, he did.

12 THE COURT: Okay. I can read that superseding  
13 information out loud here in open court if you want me to do  
14 so. Do you need me to read it aloud or do you waive the  
15 reading?

16 THE DEFENDANT: I waive the reading.

17 THE COURT: All right. You're charged, Dr. Chan, in  
18 Count One of the superseding information with drug adulteration  
19 and misbranding, in violation of Title 21, United States Code,  
20 Sections 331 and 333(a)(2).

21 Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: Pursuant to the plea agreement, I'm  
24 advised that the government will accept a guilty plea to the  
25 charge in Count One of the superseding information.



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1 Is that your understanding?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. Ms. Mortazavi, then would you  
4 please outline for the record the elements of the offense  
5 charged in Count One of the superseding information.

6 MS. MORTAZAVI: Certainly, your Honor.

7 If the government were to proceed to trial on Count  
8 One of the superseding information, we would have to prove the  
9 following elements beyond a reasonable doubt:

10 First, that the defendant adulterated or misbranded a  
11 drug in at least one way or caused the same;

12 Second, that that drug moved in interstate commerce;  
13 and

14 Third, that the defendant had the intent to defraud or  
15 mislead.

16 And the government would have to prove venue by a  
17 preponderance of the evidence.

18 THE COURT: All right. Thank you.

19 Dr. Chan, do you understand that the government would  
20 have to prove each and every part, or element, of the offense  
21 as just laid out by Ms. Mortazavi with respect to Count One  
22 beyond a reasonable doubt at trial if you did not plead guilty?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand the matters that the  
25 government would have to prove if you did not plead guilty?

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1 THE DEFENDANT: I understand.

2 THE COURT: And do you in fact wish to plead guilty?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: All right. Let's talk for a few moments,  
5 then, before we turn to accepting your plea. Let's talk about  
6 the potential penalties for the offense to which you tell me  
7 you wish to plead guilty.

8 Do you understand that the maximum possible term of  
9 imprisonment for the offense in Count One to which you tell me  
10 you intend to plead guilty is a term of imprisonment up to  
11 three years?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that Count One can also  
14 include a maximum term of supervised release after you're  
15 released from prison of up to one year?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand that in addition to  
18 these restrictions on your liberty, the maximum possible  
19 punishment for Count One also includes certain financial  
20 penalties?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you understand the maximum fine allowed  
23 is \$10,000 or twice the gross pecuniary gain to you relating to  
24 the offense or twice the loss to persons other than yourself as  
25 a result of the offense, whichever is greater?

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1 Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that I must also impose  
4 a \$100 special assessment which is mandatory per count?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that as part of your  
7 plea agreement, you have agreed to forfeit to the United States  
8 a sum of money representing proceeds traceable to the  
9 commission of the offense in Count One to which you are  
10 pleading guilty?

11 THE DEFENDANT: Yes.

12 THE COURT: All right. Now, the parties have  
13 submitted to me a proposed preliminary order of forfeiture.

14 Is it correct that that is on consent?

15 MS. MORTAZAVI: Yes, your Honor.

16 MR. KELLY: Yes, your Honor?

17 THE COURT: And that provides for forfeiture of  
18 \$311,760.

19 Is that accurate?

20 MS. MORTAZAVI: That's correct, your Honor.

21 MR. KELLY: Yes, your Honor.

22 THE COURT: All right. Do you understand, Dr. Chan,  
23 that you are agreeing to entering of forfeiture in the amount  
24 of \$311,760 and to entry of a money judgment against you in  
25 that amount?

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1 THE DEFENDANT: Yes.

2 THE COURT: Ms. Mortazavi, I have a question about  
3 that proposed forfeiture order which we'll get to in a few  
4 moments. I want to finish talking to the defendant, but I need  
5 to circle back to that.

6 Dr. Chan, I want to make sure that you understand that  
7 any forfeiture money judgment that is entered against you will  
8 not reduce the amount of any fine, restitution, cost of  
9 imprisonment or other penalty that the Court may impose.

10 Do you understand that?

11 THE DEFENDANT: I do.

12 Ms. Mortazavi, is the government seeking restitution?

13 MS. MORTAZAVI: No, your Honor. Restitution is not  
14 attached to this count.

15 THE COURT: All right. Thank you.

16 So I want to talk to you about the supervised release  
17 aspect of your potential penalty to be sure you understand that  
18 aspect of the penalties.

19 So supervised release means that you would be subject  
20 to monitoring when you are released from any term of  
21 imprisonment. During that period of supervision, certain terms  
22 and conditions would be imposed, and if you violate any of  
23 those set terms and conditions, you can be reimprisoned without  
24 a jury trial.

25 Do you understand that?

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1 THE DEFENDANT: Yes, I do.

2 THE COURT: If you are on supervised release and you  
3 do not comply with any of the set terms and conditions  
4 specifically, you can be returned to prison for up to one year,  
5 and you will receive no credit for the time you served in  
6 prison as a result of your sentence or the time that you spent  
7 on supervised release prior to any violation.

8 Do you understand that?

9 THE DEFENDANT: Yes, I do.

10 THE COURT: You should also understand that there is  
11 no parole in the federal system. If you are sentenced to  
12 prison, you will not be released early on parole. There is a  
13 limited opportunity to earn credit for good behavior, but you  
14 will have to serve 85 percent of the time to which you are  
15 sentenced. There might or there might not be opportunities to  
16 earn credit under the recently enacted First Step Act.

17 Do you understand that?

18 THE DEFENDANT: I do.

19 THE COURT: Have you had a full opportunity to discuss  
20 all of that with Mr. Kelly?

21 THE DEFENDANT: I have.

22 THE COURT: You further understand that if I accept  
23 your guilty plea and adjudge you guilty, that adjudication may  
24 deprive you of certain valuable civil rights, including the  
25 right to vote, the right to hold public office, the right to

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1 serve on a jury, and the right to possess any kind of a firearm  
2 if you currently have or could otherwise attain such rights.

3 Do you understand that?

4 THE DEFENDANT: I do.

5 THE COURT: Now, sir, you told me you are a United  
6 States citizen, but in the interest of caution, I need you to  
7 be sure you understand that if it turns out that you are not a  
8 United States citizen and I accept your guilty plea and adjudge  
9 you guilty, there could be adverse effects on your immigration  
10 status.

11 Have you discussed your immigration status and any  
12 potential consequences of entering a guilty plea with your  
13 lawyer?

14 THE DEFENDANT: Yes, I have.

15 THE COURT: All right. Next, under the current law,  
16 there are certain sentencing guidelines that I am obligated to  
17 consider in determining your sentence.

18 Have you spoken to Mr. Kelly about the sentencing  
19 guidelines?

20 THE DEFENDANT: Yes, I have.

21 THE COURT: Do you understand that in addition to  
22 considering those sentencing guidelines in imposing the  
23 sentence, I must also consider various additional factors that  
24 are set forth in the statute at 18 United States Code, Section  
25 3553?

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1 THE DEFENDANT: Yes, I understand.

2 THE COURT: And you've discussed those factors with  
3 Mr. Kelly?

4 THE DEFENDANT: I have.

5 THE COURT: Do you understand that I have discretion  
6 while taking the guidelines into account to sentence you to any  
7 period of imprisonment up to three years?

8 THE DEFENDANT: I do.

9 THE COURT: And do you understand that even though the  
10 plea agreement includes a stipulated or agreed-upon sentencing  
11 guidelines calculation, I cannot determine what your sentence  
12 will be until after a presentence report has been prepared by  
13 the probation department and you and the government and each of  
14 your lawyers have an opportunity to review that report and to  
15 challenge any of the facts reported by the probation office?

16 Do you understand that process?

17 THE DEFENDANT: I do.

18 THE COURT: Right now, according to the plea  
19 agreement, you have agreed that the sentencing guideline -- the  
20 guideline sentence appropriate to the offense in Count One to  
21 which you are pleading guilty is 36 months of incarceration.

22 Is that consistent with your understanding?

23 THE DEFENDANT: It is.

24 THE COURT: You also agreed in that plea agreement  
25 that the applicable fine range for this case is 25,000 up to

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1 250,000.

2 Is that in fact consistent with your understanding?

3 THE DEFENDANT: It is.

4 THE COURT: Do you understand that this stipulation  
5 between you and the government does not bind the Court or the  
6 probation department as to the facts on which it is based, how  
7 to apply the guidelines to the facts, or what an appropriate  
8 sentence will be in your case?

9 Do you understand that?

10 THE DEFENDANT: I do.

11 THE COURT: Do you understand that I may decide to  
12 impose a sentence that is outside the guidelines range?

13 THE DEFENDANT: Yes.

14 THE COURT: I should just say for the record, I  
15 neglected to do it earlier, but what I have been referring to  
16 as the plea agreement is a letter on the letterhead of the  
17 United States Department of Justice dated November 28, 2022,  
18 addressed to Neil Kelly, in the case United States against  
19 Alexander Chan. It's a six-page letter signed by Ms. Mortazavi  
20 on behalf of Damian Williams, United States Attorney.

21 Do you understand, sir, that if your lawyer or anyone  
22 else has attempted to estimate or predict for you what your  
23 sentence would be, that estimate or prediction could well be  
24 wrong?

25 THE DEFENDANT: Yes.



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1           THE COURT: And you understand that no one, not your  
2 attorney, nor the government attorney, can or should give you  
3 any assurance as to what your sentence would be since that  
4 sentence cannot be determined until after the probation office  
5 report is completed and I have ruled on any challenges to the  
6 report and I have to determine under the law what the  
7 appropriate sentence is.

8           Do you understand that?

9           THE DEFENDANT: I do.

10          THE COURT: Do you understand that even if your  
11 sentence is different from what your attorney or anyone else  
12 told you it might be or if it's different from what you expect  
13 or you might have hoped, or you are surprised or disappointed  
14 by your sentence, if I accept your plea of guilty today, you  
15 will be bound to that plea and will not be allowed to withdraw  
16 your plea of guilty after today?

17          Do you understand that?

18          THE DEFENDANT: I understand.

19          THE COURT: Do you understand that even if the  
20 government does not oppose or take a position on whatever your  
21 lawyer will ask me to impose as your sentence, I am obligated  
22 to impose whatever sentence I believe is appropriate under the  
23 circumstances and the applicable to law, and once I accept the  
24 plea of guilty, you will not be entitled to withdraw that plea?

25          Do you understand that?

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1 THE DEFENDANT: I do.

2 THE COURT: Do you understand that you may have a  
3 right to appeal your sentence under certain circumstances, even  
4 if your plea agreement provides that you are waiving your right  
5 to appeal?

6 THE DEFENDANT: Yes.

7 THE COURT: Are you now serving any state or federal  
8 sentence?

9 THE DEFENDANT: No.

10 THE COURT: Are you being prosecuted or investigated  
11 for any other crime other than those we were discussing today?

12 THE DEFENDANT: No.

13 THE COURT: All right. So let's turn, then, to the  
14 plea agreement itself, that six-page letter agreement that I  
15 referenced earlier. Do you have a copy of that, sir?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: Did you sign this plea agreement?

18 THE DEFENDANT: Yes, electronically.

19 THE COURT: What does NPK mean?

20 MR. KELLY: Those are my initials, you Honor.

21 THE COURT: Oh, I'm sorry.

22 MR. KELLY: I electronically signed on behalf of  
23 Dr. Chan.

24 THE COURT: And did you, in fact, Dr. Chan, authorize  
25 Mr. Kelly to sign on your behalf?

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1 THE DEFENDANT: Yes, I did.

2 THE COURT: Did you discuss it with Mr. Kelly before  
3 you authorized him to sign on your behalf?

4 THE DEFENDANT: Yes, we did.

5 THE COURT: And did Mr. Kelly explain to you all of  
6 the terms and conditions of this plea agreement?

7 THE DEFENDANT: He did.

8 THE COURT: Did you fully understand the agreement  
9 before you authorized your lawyer to sign on your behalf?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you have any questions about the  
12 agreement?

13 THE DEFENDANT: No.

14 THE COURT: You fully understand what you're committed  
15 to by having authorized your lawyer to sign this on your  
16 behalf?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you understand that your plea agreement  
19 provides that you are giving up, or waiving, your right to  
20 appeal or to litigate or challenge your sentence under Title  
21 28, United States Code, Section 2255 and/or 2241 if I sentence  
22 you within or below the guidelines sentence set forth in that  
23 plea agreement?

24 THE DEFENDANT: Yes.

25 THE COURT: And do you understand you are under no

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1 obligation to waive your right to appeal or otherwise litigate  
2 your sentence?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that the plea agreement  
5 provides that you are waiving your right to appeal or to attack  
6 your conviction on the basis that the government has not  
7 provided you with discovery material, exculpatory material,  
8 except information establishing factual innocence, or any  
9 material to impeach the government's witnesses against you?

10 THE DEFENDANT: Yes, I understand.

11 THE COURT: And do you understand you are under no  
12 obligation to waive those rights?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that your agreement  
15 provides that you will not move for a downward departure under  
16 the sentencing guidelines or seek any adjustment under the  
17 guidelines that's not described in this plea agreement, but  
18 that you may make arguments for a lower sentence under the  
19 general sentencing statute contained in those factors that I  
20 talked to you about earlier contained in Section 3553(a)?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand you are under no  
23 obligation to enter into such an agreement?

24 THE DEFENDANT: I understand.

25 THE COURT: Do you understand that as a part of your

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1 plea agreement, you have agreed not to appeal any forfeiture  
2 penalty that is less than or equal to \$311,760?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. Do you understand that as I  
5 just discussed with you earlier, the government has submitted  
6 for me to sign if I accept your guilty plea today, a proposed  
7 consent preliminary order of forfeiture in that amount?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you have you a copy of that there,  
10 Mr. Kelly?

11 MR. KELLY: Yes, your Honor.

12 THE COURT: Have you reviewed that proposed order with  
13 your lawyer, Dr. Chan?

14 THE DEFENDANT: Yes, I have.

15 THE COURT: Do you understand that you were not  
16 obligated to enter into any such agreement or consent to the  
17 proposed forfeiture order?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that your plea agreement  
20 provides that you are waiving any challenge to your guilty  
21 plea, your conviction, or your sentence based on any  
22 immigration consequences of your plea, regardless of any advice  
23 that you may have received?

24 THE DEFENDANT: Yes, I understand.

25 THE COURT: Do you understand that you are under no

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1 obligation to make this waiver?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. Let me pause for a moment.  
4 Ms. Mortazavi, I want to talk to you and to you, Mr. Kelly,  
5 about this proposed forfeiture order. Let me just find the  
6 relevant provision that I have.

7 So the forfeiture order states that Dr. Chan and  
8 Dr. Kristian Rhein are jointly and severally liable. And then  
9 it talks about that Dr. Rhein could pay it off or Dr. Chan  
10 could satisfy his obligation by paying \$50,000 within five  
11 years of his release from prison. It was my understanding,  
12 based on prior proceedings, that forfeiture obligations are not  
13 joint and several.

14 MS. MORTAZAVI: Your Honor, because in this case  
15 codefendant Kristian Rhein is the employer of this codefendant,  
16 they both had control over the drugs that are at issue here.  
17 So I think joint and several liability still survives pursuant  
18 to the Supreme Court's decision in *United States v. Honeycutt*.

19 THE COURT: That is the case I'm referring to.

20 MS. MORTAZAVI: Right. And because of  
21 Kristian Rhein's dominance over Dr. Alexander Chan because he  
22 was his employer, anything that came into the possession of the  
23 Empire Veterinary Group can be imputed to Dr. Kristian Rhein.

24 THE COURT: You want to be heard on that?

25 MR. KELLY: No, your Honor. I have the same

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1 understanding as the government of the case law.

2 THE COURT: I guess I didn't realize you, Dr. Chan,  
3 worked for Dr. Rhein.

4 THE DEFENDANT: Yes, I was an employee.

5 THE COURT: Dr. Kristian Rhein was the owner of this  
6 veterinary group?

7 MS. MORTAZAVI: That's correct, your Honor.

8 THE COURT: All right. If that's the position of both  
9 parties, I will, once we conclude, sign that preliminary order  
10 of forfeiture, then.

11 MR. KELLY: Unless your Honor was about to do it, I  
12 think you have alluded to the specific payment provision in  
13 paragraph 2 on page 3, but to the extent the Court wants to  
14 allocute Dr. Chan on the specific payment provisions here, the  
15 \$50,000 that the Court mentioned within five years of release  
16 would satisfy his obligation under the proposed order.

17 THE COURT: But you've reviewed this with your client,  
18 right?

19 MR. KELLY: Yes, your Honor. The Court had gone  
20 through it quickly. I just wanted to make sure that was on the  
21 record as well.

22 THE COURT: That's fine, but this is an order on  
23 consent.

24 Dr. Chan, let me ask you, is that your, again,  
25 electronic signature on the last page of this proposed order?

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1 THE DEFENDANT: Yes.

2 THE COURT: And did you authorize Mr. Kelly to sign  
3 this on your behalf?

4 THE DEFENDANT: Yes, I did.

5 THE COURT: Did you review or did Mr. Kelly review the  
6 consent preliminary order of forfeiture and money judgment with  
7 you prior to your authorizing him to sign it on your behalf?

8 THE DEFENDANT: Yes, I did.

9 THE COURT: Do you understand the terms and conditions  
10 of the order?

11 THE DEFENDANT: Yes, Miss.

12 THE COURT: Do you consent to them?

13 THE DEFENDANT: I do.

14 THE COURT: The money judgment will be \$311,760?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that you are jointly and  
17 severally joined with Kristian Rhein?

18 THE DEFENDANT: Yes.

19 THE COURT: And that there is a payment schedule in  
20 this proposed order?

21 THE DEFENDANT: Yes, I do.

22 THE COURT: Are you aware that the Court has  
23 previously imposed a forfeiture money judgment against  
24 Dr. Rhein in the amount of \$1,021,800?

25 THE DEFENDANT: I was made aware, yes.



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1 THE COURT: Well, did you read this order? It says it  
2 in the order.

3 THE DEFENDANT: Yes.

4 THE COURT: So you were made aware of that?

5 THE DEFENDANT: Yes.

6 THE COURT: And do you understand, based on what's  
7 represented here, that Dr. Rhein has paid \$671,600 in  
8 satisfaction of the money judgment against him?

9 THE DEFENDANT: Yes.

10 THE COURT: Are you saying by this order, counsel,  
11 that Dr. Chan is potentially liable for the remaining amount of  
12 the Rhein judgment?

13 MS. MORTAZAVI: No, your Honor. He would only be  
14 liable for the \$311,760 if payment is not made as enumerated in  
15 paragraph 2.

16 THE COURT: So what do you mean when you say he is  
17 jointly and severally liable with Dr. Rhein?

18 MS. MORTAZAVI: Well, if Dr. Rhein were not to fulfill  
19 all of his obligations under the money judgment and to that  
20 consent preliminary order of forfeiture and if Dr. Chan were  
21 not to satisfy that \$50,000 payment requirement within five  
22 years, then the two of them would be jointly and severally  
23 liable, and the government could proceed against assets of  
24 either defendant to satisfy the remainder.

25 THE COURT: Of either judgment?

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1 MS. MORTAZAVI: Of either judgment up to \$311,760,  
2 because that is the amount that they are jointly and severally  
3 liable for.

4 THE COURT: They are jointly and severally liable only  
5 for the \$311,760?

6 MS. MORTAZAVI: Forgive my Math, but whatever the  
7 difference is between that and the \$350,000 would be  
8 Dr. Rhein's responsibility only.

9 THE COURT: Is that consistent with your  
10 understanding, Mr. Kelly?

11 MR. KELLY: Yes, your Honor.

12 THE COURT: Dr. Chan, do you understand the colloquy I  
13 just had with counsel?

14 THE DEFENDANT: Yes.

15 THE COURT: And is that consistent with your  
16 understanding?

17 THE DEFENDANT: That is consistent with my  
18 understanding.

19 THE COURT: Do you have any questions about what your  
20 obligations will be?

21 THE DEFENDANT: No.

22 THE COURT: And you understand that if you pay the  
23 \$50,000 within five years of your release from prison, that  
24 will satisfy your obligations, correct?

25 THE DEFENDANT: That is my understanding, yes.

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1 THE COURT: Okay. All right. I will sign this, and  
2 it will become part of the judgment in this case at the time of  
3 sentencing.

4 Turning back, Dr. Chan, to your plea agreement that we  
5 were looking at earlier. Does that letter agreement, the plea  
6 agreement, reflect accurately your complete and total  
7 understanding of the entire agreement between the government,  
8 you, and the respective attorneys?

9 THE DEFENDANT: Yes, it does.

10 THE COURT: Is everything you understand about your  
11 plea and about your sentence up to this point covered in that  
12 agreement?

13 THE DEFENDANT: Yes.

14 THE COURT: Has anything that you believe you've  
15 agreed to been left out?

16 THE DEFENDANT: No.

17 THE COURT: Apart from what's contained in this plea  
18 agreement, have any promises been made to you in order to get  
19 you to plead guilty?

20 THE DEFENDANT: No.

21 THE COURT: Has anyone threatened you in any way to  
22 get you to plead guilty?

23 THE DEFENDANT: No.

24 THE COURT: Now, with all that we've just discussed,  
25 do you still wish to plead guilty pursuant to this plea

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1 agreement?

2 THE DEFENDANT: Yes, I do.

3 THE COURT: All right. Mr. Kelly, do you know of any  
4 valid reason why your client would prevail at trial or why your  
5 client should not be permitted to plead guilty?

6 MR. KELLY: No, your Honor.

7 THE COURT: Dr. Chan, we've reached a point in the  
8 proceedings where I need for you to tell me in your own words  
9 what you did that makes you guilty of the crime charged in  
10 Count One of the superseding information to which you tell me  
11 you intend to plead guilty.

12 Tell me what you did, with whom you did it, where you  
13 did it, when you did it.

14 THE DEFENDANT: From August 2018 through March 2020,  
15 in the Southern District of New York and elsewhere, I  
16 distributed misbranded drugs that were shipped in interstate  
17 commerce with the intent to mislead and avoid detection by  
18 regulators and racing officials. Specifically at the direction  
19 of Kristian Rhein, I mislabeled and distributed mislabeled  
20 clenbuterol for administration to thoroughbred racehorse under  
21 the care of Empire Veterinary Group.

22 I knew what I did was wrong and against the law, and I  
23 am very sorry for my actions.

24 THE COURT: Is clenbuterol the only misbranded and  
25 adulterated drugs you distributed?

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1 MR. KELLY: Your Honor, that's the basis of our plea  
2 agreement with the government, the clenbuterol-related conduct.

3 THE COURT: OK. Let me just ask you, when you say you  
4 distributed it, did you administer it to any horses under your  
5 care?

6 THE DEFENDANT: Clenbuterol is an oral substance.

7 THE COURT: I know what it is.

8 THE DEFENDANT: No, I did not personally administer  
9 any.

10 THE COURT: You said that you did this with the intent  
11 to avoid detection, is that correct?

12 THE DEFENDANT: Yes.

13 THE COURT: Did you take steps to avoid detection?

14 MR. KELLY: May we have a moment, your Honor?

15 THE COURT: Yes.

16 (Counsel conferred with the defendant)

17 THE DEFENDANT: Yes, the labeling was incorrect.

18 THE COURT: Anything else?

19 THE DEFENDANT: No. Could you repeat?

20 THE COURT: Yes. Did you take any other steps to  
21 avoid detection of the distribution of adulterated or  
22 misbranded drugs?

23 THE DEFENDANT: I failed to report to the relevant  
24 regulators the use of clenbuterol as required.

25 THE COURT: Did you report the use to the trainers of

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1 these horses and the owners?

2 THE DEFENDANT: Yes. The clenbuterol was submitted or  
3 given to the trainers or the trainer's assistants. They are  
4 the agents for the owners.

5 THE COURT: Did you bill the owners directly or the  
6 trainers for your veterinary services?

7 THE DEFENDANT: I did not do any billing in my  
8 practice.

9 THE COURT: It was all done by the practice or other  
10 people other than you?

11 THE DEFENDANT: Correct.

12 THE COURT: All right. At the time -- and you said  
13 you did at least some of this in the Southern District of New  
14 York?

15 MR. KELLY: I think the government will be able to  
16 make a proffer on this, your Honor.

17 THE COURT: I do believe he said in the Southern  
18 District of New York and elsewhere.

19 MS. MORTAZAVI: Yes, your Honor. The government can  
20 proffer and I believe the defendant is willing to accept that  
21 the drug at issue is manufactured outside New York State and  
22 traveled through the Southern District of New York to reach the  
23 veterinary practice in the Eastern District of New York.

24 THE COURT: Do you agree with that, Dr. Chan?

25 THE DEFENDANT: Yes, I do.

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1 THE COURT: All right. Thank you.

2 At the time you did all what you just described to me,  
3 did you know that what you were doing was wrong?

4 THE DEFENDANT: Yes, I did.

5 THE COURT: Did you know that it was illegal?

6 THE DEFENDANT: Yes, I did.

7 THE COURT: Does the government wish any further  
8 factual matter to be addressed with Dr. Chan in connection with  
9 his allocution?

10 MS. MORTAZAVI: No, your Honor. I think the  
11 government's proffer on that should be sufficient.

12 THE COURT: All right. Would you then, Ms. Mortazavi,  
13 outline the evidence that you would offer against Dr. Chan if  
14 the case were to go to trial.

15 MS. MORTAZAVI: Certainly, your Honor.

16 If the case were to go to trial, the government would  
17 present proof of a number of items, including recorded calls  
18 between the defendant and his coconspirators discussing the use  
19 of adulterated and misbranded drugs, including clenbuterol,  
20 without valid prescription. And I would note that clenbuterol  
21 is a prescription drug.

22 We would supply proof of false veterinary bills that  
23 were created by the veterinary practice and sent to the owners  
24 which were also sent to the defendant concealing charges for  
25 adulterated and misbranded drugs.

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1           We would also offer lay and expert testimony that the  
2           drugs involved in this case required prescriptions, were not  
3           given or administered with valid prescriptions, and were  
4           distributed to others for their own administration. Those  
5           others not being veterinarians.

6           We would also supply proof that the adulterated and  
7           misbranded drugs at issue were manufactured outside of New York  
8           State and traveled through the Southern District of New York.

9           THE COURT: All right. Just to be clear, Mr. Kelly,  
10          you stipulate to that latter point that the drugs were -- I  
11          don't remember if I asked you, I know I asked Dr. Chan, but you  
12          stipulate that the drugs were manufactured outside of New York,  
13          traveled through the Southern District of New York to the  
14          Eastern District. That's where the veterinary practice was  
15          located?

16          MS. MORTAZAVI: That's correct, your Honor.

17          THE COURT: All right. Ms. Mortazavi, is there an  
18          adequate factual basis to support a plea of guilty to Count One  
19          of the superseding information?

20          MS. MORTAZAVI: Yes, your Honor.

21          THE COURT: Mr. Kelly, is there an adequate factual  
22          basis to support a plea of guilty to Count One of the  
23          superseding information?

24          MR. KELLY: Yes, your Honor.

25          THE COURT: Are there any further questions you



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1 believe I should explore with your client in connection with  
2 his allocution?

3 MR. KELLY: No, your Honor.

4 THE COURT: All right. Dr. Chan, now that we've  
5 discussed your plea agreement and the possible penalties of the  
6 crime to which you're pleading guilty, we can turn to entry of  
7 a plea.

8 Are you prepared to proceed?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. Would you please stand.

11 How do you plead, sir, to Count One of the superseding  
12 information S15?

13 THE DEFENDANT: Guilty.

14 THE COURT: Are you pleading guilty because you are in  
15 fact guilty?

16 THE DEFENDANT: Yes.

17 THE COURT: Are you pleading guilty voluntarily?

18 THE DEFENDANT: Yes.

19 THE COURT: Are you doing so of your own free will?

20 THE DEFENDANT: Yes.

21 THE COURT: Have you been pressured or coerced in any  
22 way to get you to plead guilty?

23 THE DEFENDANT: No.

24 THE COURT: All right. Are there any other questions,  
25 Mr. Kelly, that you believe I should ask Dr. Chan in connection

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1 with this plea?

2 MR. KELLY: No, your Honor.

3 THE COURT: All right. Ms. Mortazavi?

4 MS. MORTAZAVI: No, your Honor.

5 THE COURT: Dr. Chan, you've acknowledged that you are  
6 in fact guilty as charged in Count One of the superseding  
7 information. Because I am satisfied that you know your rights,  
8 including your right to go to trial, and that you are waiving  
9 them voluntarily and that you are aware of consequences of your  
10 plea, including the sentence that may be imposed, I find that  
11 your plea is entered knowingly and voluntarily and is supported  
12 by an independent basis in fact containing each of the  
13 essential element of the offense.

14 I therefore accept your guilty plea, and I enter a  
15 judgment of guilty of Count One of the superseding information,  
16 drug adulteration and misbranding with the intent to defraud,  
17 in violation of Title 21, United States Code, Section 331 and  
18 333(a)(2).

19 You may be seated, sir.

20 Before we adjourn, Dr. Chan, I want to talk to you  
21 about the process going forward. The next step, as I had  
22 mentioned earlier, is that the probation office needs to  
23 prepare the presentence report that will assist me in  
24 determining what the appropriate sentence is in this case.

25 In order to prepare that report, the probation office

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1 needs to interview you. It's very important that the  
2 information you give to the probation officer be truthful and  
3 it be accurate. As I said, that report is very important to me  
4 in determining what your sentence will be.

5 Once the report is prepared, you and your lawyer, also  
6 the government and its lawyer will have the opportunity to  
7 examine that report. You can challenge it, comment on it,  
8 object to anything contained factually within that report.  
9 Before I sentence you, you will have the opportunity to address  
10 me directly if you wish to do so.

11 All right. Is there any reason why I shouldn't direct  
12 a presentence report to be prepared?

13 MS. MORTAZAVI: No, your Honor.

14 MR. KELLY: No, your Honor.

15 THE COURT: Mr. Kelly, I presume you would wish to be  
16 present at any interview of Dr. Chan?

17 MR. KELLY: Yes, your Honor.

18 THE COURT: Would you please arrange, then, for an  
19 interview of Dr. Chan within the next two weeks.

20 And I order that no interview be conducted unless  
21 Mr. Kelly is present with Dr. Chan.

22 Ms. Mortazavi, you will give a statement of fact to  
23 probation within that 14-day time period, please.

24 MS. MORTAZAVI: Yes, your Honor.

25 THE COURT: Counsel, it's obviously very important

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1 that once you receive that presentence report in draft form  
2 that you give timely comments or objections to the probation  
3 office. Courtesy copies will be provided to chambers. Once  
4 the presentence report is finalized, that will be filed on the  
5 docket as well.

6 Any submissions by the defendant are due two weeks  
7 prior to sentencing. The government submission is due one week  
8 prior to sentencing.

9 Let me just take a look at proposed dates. April 13,  
10 does that present any problem for anyone?

11 MS. MORTAZAVI: No issues with the government, you  
12 Honor.

13 MR. KELLY: Your Honor, that works for the defense.

14 THE COURT: 2:00 p.m. on April 13.

15 Dr. Chan, I just remind you again that it's critically  
16 important that you be truthful and cooperative with the  
17 probation officer. Any failure to be truthful with probation  
18 or the Court can have an adverse effect on your sentencing. It  
19 could subject you to a separate prosecution for perjury if  
20 that, in fact, is the case. But specifically, I am going to  
21 reserve the right to deny you the two-level reduction in the  
22 calculation of your sentencing guideline offense level that you  
23 and the government have stipulated to for acceptance of  
24 responsibility if you do not cooperate fully with the probation  
25 office.

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1 Do you understand, sir?

2 THE DEFENDANT: Yes, I do.

3 THE COURT: Ms. Dempsey, do you have the consent order  
4 of forfeiture? Do you have a clean copy for the Court's  
5 signature?

6 MS. MORTAZAVI: Your Honor, I have a copy here. I  
7 handwrote the date. If the Court wants me to submit a new  
8 copy, I can do that.

9 THE COURT: Ms. Dempsey has the order. I will sign  
10 it. We will docket it.

11 Everybody is on notice. I assume there are no issues  
12 with respect to the order for forfeiture amount since this  
13 order is on consent, Mr. Kelly?

14 MR. KELLY: That's correct.

15 THE COURT: If there are any issues, you need to speak  
16 to each other and provide the Court with notice in advance of  
17 sentencing so that if we need to have any hearings with regards  
18 to the forfeiture amount or any other financial penalties, I  
19 can schedule that in advance of the sentencing. Understood?

20 MS. MORTAZAVI: (Nods head.)

21 THE COURT: I will just ask that the parties please  
22 order a copy of today's transcript. I do go back and read the  
23 plea hearing transcript as I prepare for any sentencing.

24 Is there anything that we should discuss today?

25 MS. MORTAZAVI: Not from the government.

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1 MR. KELLY: No, your Honor.

2 THE COURT: Thank you very much.

3 And I thank the court reporter for being here this  
4 afternoon.

5 And we will stand adjourned, then.

6 (Adjourned)

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